

**TITAN INDEMNITY COMPANY
2700 N.E. LOOP 410, SUITE 500
SAN ANTONIO, TEXAS 78217**

NAIC COMPANY CODE 13242

MARKET CONDUCT EXAMINATION REPORT

**as of
December 31, 2003**

**PREPARED BY INDEPENDENT CONTRACTORS FOR THE
COLORADO DEPARTMENT OF REGULATORY AGENCIES
DIVISION OF INSURANCE**

**Titan Indemnity Company
2700 N.E. Loop 410, Suite 500
San Antonio, Texas 78217**

**MARKET CONDUCT
EXAMINATION REPORT
as of
December 31, 2003**

Prepared by

Wayne C. Stephens, CIE

Kathleen M. Bergan, AIE

Independent Contract Examiners

June 23, 2004

The Honorable Doug Dean
Commissioner of Insurance
State of Colorado
1560 Broadway Suite 850
Denver, Colorado 80202

Commissioner Dean:

In accordance with §§ 10-1-203 and 10-3-1106, C.R.S., an examination of selected underwriting, rating, and claims practices of Titan Indemnity Company's private passenger automobile business, has been conducted. The Company's records were examined at its Corporate office located at 5915 Landerbrook Drive, Cleveland, Ohio 44124-4058. The Company's Administrative office is located in San Antonio, Texas.

The examination covered a one-year period from January 1, 2003 to December 31, 2003.

A report of the examination of Titan Indemnity Company is, herewith, respectfully submitted.

Wayne C. Stephens, CIE

Kathleen M. Bergan, AIE

Independent Market Conduct Examiners

**MARKET CONDUCT
EXAMINATION REPORT
OF THE
TITAN INDEMNITY COMPANY**

TABLE OF CONTENTS

<u>SECTION</u>	<u>PAGE</u>
SALUTATION.....	3
I. COMPANY PROFILE.....	5
II. PURPOSE AND SCOPE OF EXAMINATION.....	6
III. EXAMINER’S METHODOLOGY.....	8
IV. EXAMINATION REPORT SUMMARY.....	13
V. PERTINENT FACTUAL FINDINGS.....	15
A. PRIVATE PASSENGER AUTO	
1. Underwriting and Rating.....	16
2. Claims.....	32
VI. SUMMARY OF RECOMMENDATIONS.....	36
VII. EXAMINATION REPORT SUBMISSION.....	37

COMPANY PROFILE

Titan Indemnity Company (hereinafter referred to as “The Company”) was incorporated under the laws of Texas on January 18, 1984 and commenced business on April 26, 1984. In December of 1997, the Company Merged with United States Fidelity and Guaranty Company (USF&G) whereby USF&G acquired all outstanding shares of The Company. Under the ownership of USF&G, a Holding company was formed which merged ownership with an affiliate Victoria Financial Corporation (also a non-standard auto carrier) which became THI Holdings (Delaware), Inc. Effective April 24, 1998, USF&G merged with the St. Paul Companies, with USF&G becoming a wholly owned subsidiary of St. Paul.

On May 1, 2000, Prudential Property & Casualty (PRUPAC) completed the purchase of the holding company, consisting of the Company and Victoria Insurance Company.

On August 1, 2003, Nationwide Mutual Insurance Company acquired Titan Holdings, Inc. (formerly THI Holdings (Delaware), Inc. and is maintained as the holding company for non-standard auto business provided through the Company and their affiliate, Victoria Insurance Company.

The Company markets their non-standard auto products through captive agents located in twelve (12) retail locations throughout the state. The underwriting functions are based out of the corporate offices in Cleveland, Ohio and a multi-state regional claims office is maintained in Phoenix, Arizona. Colorado claims are handled from the regional office in Phoenix.

The Company was issued a Certificate of Authority to write business in Colorado on October 12, 1988, but did not begin writing non-standard auto until June 1, 1996.

The Company is licensed to transact business in forty-eight (48) states except Connecticut and Rhode Island.

As of December 31, 2003, the Company had reported written premium in Colorado of \$11,434,000 for Private Passenger Automobile, representing .89% market share in Colorado. At the time of this examination report, the 2003 premium and market share data as reported in the Colorado Insurance Industry Statistical Report was not yet available. Therefore, the premium and market share data was obtained from financial information as reported and maintained in the NAIC website.

PURPOSE AND SCOPE OF EXAMINATION

This market conduct report was prepared by independent examiners contracting with the Colorado Division of Insurance for the purpose of auditing certain business practices of insurers licensed to conduct the business of insurance in the State of Colorado. This procedure is in accordance with Colorado Insurance Law §10-1-204, C.R.S., which empowers the Commissioner to supplement his resources to conduct market conduct examinations. The findings in this report, including all work product developed in the production of this report, are the sole property of the Colorado Division of Insurance.

The purpose of the examination was to determine the Company's compliance with Colorado insurance law and with generally accepted operating principles related to Private Passenger Automobile insurance laws. Examination information contained in this report should serve only these purposes. The conclusions and findings of this examination are public record. The preceding statements are not intended to limit or restrict the distribution of this report.

This examination was governed by, and performed in accordance with, procedures developed by the National Association of Insurance Commissioners and the Colorado Division of Insurance. In reviewing material for this report the examiners relied primarily on records and material maintained by the Company. The examination covered a twelve (12) month period of the Company's operations, from January 1, 2003 to December 31, 2003.

File sampling was based on a review of underwriting and claims files that were randomly selected by using "ACL"™ software and computer data files provided by the company. Sample sizes were chosen based on procedures developed by the National Association of Insurance Commissioners. Upon review of each file any concerns or discrepancies were noted on comment forms and delivered to the Company for review. Once the Company was advised of a finding contained in a comment form, the Company had the opportunity to respond. For each finding the Company was requested to agree, disagree or otherwise justify the Company's noted action. At the conclusion of each sample the Company was provided a summary of the findings for that sample. The examination report is a report by exception. Therefore, much of the material reviewed is not addressed in this written report. Reference to any practices, procedures, or files, which manifested no improprieties, was omitted.

When sampling was involved, a minimum error tolerance level of five percent (5%) was established to determine reportable exceptions. However, if an issue appeared to be systematic, or when due to sampling process it was not feasible to establish an exception percentage, a minimum error tolerance percentage was not utilized. Also, if more than one sample was reviewed in a particular area of examination (e.g. timeliness of claims payment), and if one or more samples yielded an exception rate of five percent (5%) or more, the results of any other samples with exception percentages less than five (5%) were also included.

An error tolerance level of plus or minus ten dollars (\$10.00) was allowed in most cases where monetary values were involved. However, in cases where monetary values were generated by computer or other systemic methodology, a zero (\$0) tolerance level was applied in order to identify possible system errors. Additionally, a zero (\$0) tolerance level was applied in instances where there appeared to be a consistent pattern of deviation from the Company's established policies, procedures, rules and/or guidelines.

The report addresses only Private Passenger Automobile issues and contains information regarding exceptions to the Colorado insurance law. The examination included review of the following:

1. Company Operations and Management
2. Underwriting and Rating
3. Claims Practices

Certain unacceptable or non-complying practices may not have been discovered in the course of this examination. Additionally, findings may not be material to all areas that would serve to assist the Commissioner. Failure to identify or criticize specific Company practices does not constitute acceptance by the Colorado Division of Insurance. Examination findings may result in administrative action by the Division of Insurance.

EXAMINERS' METHODOLOGY

The examiners reviewed the Company's Private Passenger Automobile underwriting and claims practices to determine compliance with the Colorado insurance law as outlined in Exhibit 1.

On July 1, 2003, the Colorado Auto Accident Reparations Act, also known as the motor vehicle no-fault insurance law was repealed pursuant to § 10-4-726, C.R.S. Upon enactment of HB 03-1188, the Colorado law index was changed to include modification and clarification of laws under Section 10-4-600. Because this examination included the repeal and the addition of new Colorado auto insurance laws during the period under examination, both No-Fault (PIP) and tort reform as well as additional legislative enactments during 2003 are included in Exhibit 1.

Exhibit 1

Law	Subject
Colorado PIP/No fault Related laws	
Section 10-4-602.	Basis for Cancellation.
Section 10-4-603.	Notice.
Section 10-4-604.	Nonrenewal.
Section 10-4-605.	Proof of notice.
Section 10-4-609.	Insurance protection against uninsured motorists-applicability.
Section 10-4-610.	Property damage protection against uninsured motorists.
Section 10-4-611.	Elimination of discounts – damage by uninsured motorist.
Section 10-4-613.	Glass repair and replacement.
Section 10-4-614.	Inflatable restraint systems - replacement - verification of claims.
Section 10-4-706.	Required coverage - complying policies - PIP examination program.
Section 10-4-706.5.	Operator's policy of insurance.
Section 10-4-707.5.	Ridesharing arrangements - benefits payable - required coverage.
Section 10-4-708.	Prompt payment of direct benefits.
Section 10-4-709.	Coordination of benefits.
Section 10-4-710.	Required coverages are minimum.
Section 10-4-711.	Required provision for intrastate and interstate operation.
Section 10-4-713.	No tort recovery for direct benefits.
Section 10-4-714.	Limitation on tort actions.
Section 10-4-715.	No limitation on tort action against non-complying tort-feasors.
Section 10-4-717.	Intercompany arbitration.
Section 10-4-718.	Quarterly premium payments.
Section 10-4-719.	Prohibited reasons for nonrenewal or refusal to write a policy of automobile insurance applicable to this part 7.
Section 10-4-719.5.	Discriminatory standards - premiums - surcharges - proof of financial responsibility requirements.
Section 10-4-719.7.	Refusal to write, changes in, cancellation, or nonrenewal of policies prohibited.

Law	Subject
Section 10-4-720.	Cancellation - renewal - reclassification.
Section 10-4-721.	Exclusion of named driver.
Section 10-4-724.	Reduction in rates for drivers aged fifty-five years or older who complete a driver's education course legislative declaration.
Section 10-4-725.	Certification of policy and notice forms.
Section 10-3-1103.	Unfair methods of competition and unfair or deceptive acts or practices prohibited.
Section 10-3-1104.	Unfair methods of competition and unfair or deceptive acts or practices.
Regulation 1-1-6	Certification of Forms
Regulation 1-1-7.	Market Conduct Record Retention.
Regulation 1-1-8	Penalties and Timelines Concerning Division Inquiries and Document Requests.
Regulation 5-1-2.	Application and Binder Forms.
Regulation 5-1-10.	Rate and Rule Filing Regulation
Regulation 5-1-16.	Limitations on the Use of Credit Information or Insurance Scoring.
Regulation 5-2-1.	Relative Value Schedule for No Fault.
Regulation 5-2-2.	Renewal of Automobile Insurance Policies – Excluded Named Drivers.
Regulation 5-2-3.	Auto Accident Reparations Act (No Fault) Rules and Regulations.
Regulation 5-2-6.	Automobile No Fault Cost Containment Options.
Regulation 5-2-8.	Timely Payment of Personal Protection Benefits.
Regulation 5-2-9.	Personal Injury Protection Examination Program.
Regulation 6-1-1.	Limiting coverage.
Regulation 6-2-1.	Complaint Record Maintenance.
Tort Reform Legislation and Revised laws- Effective July 1, 2003	
Section 10-4-615	Motorist insurance identification database program.
Section 10-4-616	Disclosure of credit reports.
Section 10-4-617	Auto theft prevention authority.
Section 10-4-618	Unfair or discriminatory trade practices legislative declaration.
Section 10-4-619	Coverage compulsory.
Section 10-4-620	Required coverage.
Section 10-4-621	Required coverages are minimum.
Section 10-4-622	Required provision for intrastate and interstate operation.
Section 10-4-623	Conditions and exclusions.
Section 10-4-624	Self-insurers.
Section 10-4-625	Quarterly premium payments.
Section 10-4-626	Prohibited reasons for nonrenewal or refusal to write a policy of Automobile insurance.

Law	Subject
Section 10-4-628	Refusal to write-changes in-cancellations-nonrenewal
Section 10-4-629	Cancellation-renewal-reclassification.
Section 10-4-630	Exclusions of named driver.
Section 10-4-631	Insurers to file rate schedule.
Section 10-4-632	Reduction in rates for drivers aged fifty-five or older who Complete a driver's education course-legislative declaration.
Section 10-4-633	Certification of policy and notice forms.
Emergency Regulation 03-E-2, 5, and 10	Transition from No-Fault Auto to Tort System.

Company Operations/Management

The examiners reviewed Company management, implementation of quality controls, record retention, installment payment plans, anti-fraud plan, forms certification, and timely cooperation with the examination process.

Contract Forms and Endorsements

The following Private Passenger Automobile forms and endorsements were reviewed for compliance applicable to the period under examination as filed with the Colorado Division of Insurance:

Form Title	Form Number
Colorado Private Passenger Automobile Policy	DP00105703
Policy Endorsements:	
Additional Equipment	DE007050800
Additional Interest	DE009050800
Automatic Termination, Nonrenewal and Cancellation	DE002050101
Combined Single Limit Liability	DE037050800
Combined Single Limit Uninsured/Underinsured Motorist	DE041050800
Loss Payee Clause	DE013050101
Named Operator Non-Owner Coverage	DE011050703
Rental Reimbursement	DE005050800
Termination, Nonrenewal, Cancellation	DE002050101
Towing Reimbursement	DE006050101
Uninsured Motorist Property Damage	DE004050703
Uninsured/Underinsured Motorist Coverage	DE003050703
Additional Equipment	DM031990800
Amended Business Declaration	No Form Number
Business Use Questionnaire	DM029990800
Bill Cancel Combination Notice	DC015050801
Cancellation for Nonpayment	DC004050800
Cancellation for Underwriting Reasons	DC005050800
Colorado Auto Application	DA001050703
Colorado Consumer Disclosure Form	DP002050703
Colorado E-Z Application	DA002050703

Confirmation of Cancellation	AC019050401
Driver Exclusion (Computer form)	DC001051001
ID Card	No Form Number
Installment Bill	No Form Number
Lapse Notice	DC011050801
Lienholder/Additional Interest Notification	DM032990800
Named Driver Exclusion	DM014051001
New Business Declaration	No Form Number
Non-Renewal Notice	DC003050800
Nonresidency Statement	DM03390800
Notice of Payment Due/Cancellation Notice	DC022050901
Notice of Proposed Increase in Premium	No Form Number
Physicians Statement	DM028990800
Reinstatement Notice	DC006050800
Renewal Business Declaration	No Form Number
Renewal Notice of Payment Due/Friendly Reminder	DC012050800
SR22	No Form Number
SR26	No Form Number
Statement of No Accidents or Losses	DE019990800
Uninsured Motorist Rejection Form	DM017050800
Vehicle Inspection Report	DM024050800
Vehicle Photograph Request	DM030990800

In-Force /Cancellations/Non-renewals/Surcharges/Renewals

For the period under examination, the examiners randomly selected the following underwriting samples to determine compliance with underwriting practices:

Underwriting Lists	Population	Sample Size	Percentage to Population
In-Force	39,398	100	.25%
Cancellations for Cause	3,369	50	1.48%
Non-renewals	26	26	100%
Surcharges	1,015	50	5%
Cancellations-Nonpayment	27,042	100	.37%

Rating

The examiners reviewed the rate, rule filings, statistical justifications, and methodology submitted to Colorado Division of Insurance for the period under examination. This information was then compared against a sample of policies, rated by coverage, to determine compliance with base rates, territory codes, symbols, discounts, and final premium calculations.

Claims

For the period under examination, the examiners randomly selected the following samples to determine compliance of claims handling practices:

Claim Lists	Population	Sample Size	Percentage to Population
Claims Paid	1,032	50	4.84%
Claims Denied	577	50	8.67%
PIP paid claims	155	50	32.26%

EXAMINATION REPORT SUMMARY

The examination resulted in eight (8) issues arising from the Company's apparent failure to comply with Colorado insurance law that govern all property and casualty insurers operating in Colorado. These issues involved the following categories:

Company Operations and Management:

In the area of company operations and management, there are no issues addressed in this report.

Underwriting and Rating:

In the area of underwriting, six (6) compliance issues are addressed in this report. Issues arise from Colorado insurance law requirements that must be complied with whenever policies are issued, canceled, rejected, non-renewed, or surcharged. The issues in this phase of the examination are identified as follows:

- Failure to use a compliant form for Cancellation and nonrenewal notices.
- Failure, in some cases, to provide a specific reason on nonrenewal notices.
- Failure to use a complying reason for nonrenewal of a Private Passenger Automobile policy.
- Failure, to provide policyholders proper notification of an increase in premium.
- Failure to correctly apply the Senior Safe Driver Discount in compliance with Colorado insurance law.
- Failure to file a complete tier rating plan with the Colorado Division of Insurance.

It is recommended that the Company review its underwriting practices and procedures and make necessary changes to ensure future compliance with applicable statutes and regulations as it relates to this issue.

Claim Practices:

In the area of claim practices, two (2) compliance issues are addressed in this report. Issues arise from Colorado insurance law requirements dealing with the fair and equitable settlement of claims, claims handling practices, payment of PIP claim benefits, and the timeliness and accuracy of claim payments. The issues in this phase are identified as follows:

- Delay, in some cases, in the payment of PIP benefits. (This was Issue N in the previous 1998 Market Conduct Examination Report and is therefore considered a repeat violation.)
- Failure, in some cases, to pay claims in accordance with the Company's written claim procedure manual.

It is recommended that the Company review its claim handling practices and procedures and make necessary changes to ensure future compliance with applicable statutes and regulations.

A copy of the Company's response, if applicable, can be obtained by contacting the Company or the Colorado Division of Insurance.

Results of previous Market Conduct Exams are available on the Colorado Division of Insurance's website at www.dora.state.co.us/insurance or by contacting the Colorado Division of Insurance.

TITAN INDEMNITY COMPANY

PERTINENT FACTUAL FINDINGS

PERTINENT FACTUAL FINDINGS

UNDERWRITING AND RATING

Issue A: Failure to use a compliant form for cancellation and non-renewal notices.

Section 10-4-720, C.R.S., Cancellation-renewal-reclassification, states in part:

- (1) Except in accordance with the provisions of this part 7, no insurer shall cancel or fail to renew a policy of insurance which complies with this part 7, issued in this state, as to any resident of the household of the named insured, for any reason other than nonpayment of premium, or increase a premium for any coverage on any such policy unless the increase is part of a general increase in premiums filed with the commissioner and does not result from a reclassification of the insured, or reduce the coverage under any such policy unless the reduction is part of a general reduction in coverage filed with the commissioner or to satisfy the requirements of other sections of this part 7.
- (2) An insurer intending to take an action subject to the provisions of this section shall, on or before thirty days prior to the proposed effective date of the action, send written notice by first-class mail of its intended action to the insured at his last known address. The notice shall be in triplicate and shall state in clear and specific terms, on a form which has been certified by the insurer and the insurer has filed a certification with the commissioner that such notice form conforms to Colorado law and any rules or regulations promulgated by the commissioner:
 - (a) The proposed action to be taken, including, if the action is an increase in premium or reduction in coverage, the amount of increase and the type of coverage to which it is applicable or the type of coverage reduced and the extent of the reduction;
 - (b) The proposed effective date of the action;
 - (c) The insurer's actual reasons for proposing to take such action. The statement of reasons shall be sufficiently clear and specific so that a person of average intelligence can identify the basis for the insurer's decision without making further inquiry. Generalized terms such as "personal habits", "living conditions", "poor morale", or "violation or accident record" shall not suffice to meet the requirements of this subsection (2).
 - (d) If there is coupled with the notice an offer to continue or renew the policy in accordance with section 10-4-721, the name of the person or persons to be excluded from coverage and what the premium would be if the policy is continued or renewed with such person or persons excluded from coverage;
 - (e) The right of the insured to replace the insurance through an assigned risk plan;
 - (f) The right of the insured to protest the proposed action and request a hearing thereon before the commissioner by signing two copies of the notice and sending them to the commissioner within ten days after receipt of the notice;

In addition, Amended Colorado Regulation 5-2-3 (Effective May 1, 2001) Auto Accident Reparations Act (No-Fault) Rules and Regulations, states in part:

2. Notice of proposed actions.

a. A proposal to cancel, non-renew, increase the premium or reduce coverage under a private passenger motor vehicle insurance policy shall state the actual reason for proposing such action in the notice required by §10-4-720 (2), C.R.S. Only one notice is required to be sent to the insured whose incident resulted in the proposed action. The statement of reasons shall be clear and specific so that a reasonable person can understand it. The insurer shall clearly describe its underwriting rule, policy or guideline which is the basis for the proposed action. A simple recitation of dates and incidents, without further detail, is not acceptable and may cause the insurer's proposed action to be disallowed.

b. Insurers proposing to cancel, non-renew, increase premium or reduce coverage shall prominently display on the notice form, within or adjoining the paragraph entitled "Your Right to Protest", the following premium payment instructions:

In order to continue your coverage during the period the proposed action is protested, you must continue to make payments according to your current premium payment plan until a decision is made by the hearing officer. You may contact your producer (agent) or the company at (phone number) for further information. Please note that the company may bill you later for any premium difference occurring if the company's action is upheld. This is the only notification you will receive to pay the premium due to continue coverage. If the premium is not paid prior to the effective date of the action listed on the notice, the coverage will lapse.

Section 10-4-629, C.R.S., (Effective July 1, 2003) Cancellation-renewal-reclassification, states in part:

(1) Except in accordance with the provisions of this part 6, an insurer shall not cancel or fail to renew a policy of insurance that complies with this part 6, issued in this state, as to any resident of the household of the named insured, for any reason other than nonpayment of premium, or increase a premium for any coverage on any such policy unless the increase is part of a general increase in premiums filed with the commissioner and does not result from a reclassification of the insured, or reduce the coverage under any such policy unless the reduction is part of a general reduction in coverage filed with the commissioner or to satisfy the requirements of other sections of this part 6.

(2) An insurer intending to take an action subject to the provisions of this section shall, on or before the thirtieth day before the proposed effective date of the action, send written notice by first-class mail of its intended action to the insured at the insured's last-known address. The notice shall be in triplicate and shall state in clear and specific terms, on a form that has been certified by the insurer and the insurer has filed a certification with the commissioner that such notice form conforms to Colorado law and any rules promulgated by the commissioner:

(a) The proposed action to be taken, including, if the action is an increase in premium or reduction in coverage, the amount of increase and the type of coverage to which it is applicable or the type of coverage reduced and the extent of the reduction;

- (b) The proposed effective date of the action;
- (c) The insurer's actual reasons for proposing to take such action. The statement of reasons shall be sufficiently clear and specific so that a person of average intelligence can identify the basis for the insurer's decision without making further inquiry. Generalized terms such as "personal habits", "living conditions", "poor morale", or "violation or accident record" shall not suffice to meet the requirements of this subsection (2).
- (d) If there is coupled with the notice an offer to continue or renew the policy in accordance with section 10-4-628, the name of the person or persons to be excluded from coverage and what the premium would be if the policy is continued or renewed with such person or persons excluded from coverage;
- (e) The right of the insured to replace the insurance through an assigned risk plan;
- (f) The right of the insured to protest the proposed action and request a hearing thereon before the commissioner by signing two copies of the notice and sending them to the commissioner within ten days after receipt of the notice;

In the review of Cancellation and Nonrenewal notices it appears that the Company was inconsistent in programming the required information to be provided to the insured. The notices as filed on the annual certification listing appears to include an offer to exclude, information of the Assigned Risk Plan and the "Right to Protest". However, this information is not displayed on all notices due to programming limitations on the Company computer system. Various information relating to the reasons for cancellation were not imputed into the system and therefore notices to insureds were generated with inconsistencies in printing the required information. The Company is in the process of rectifying these program errors to provide policyholders with the required information on these notices to comply with Colorado insurance law.

Recommendation Number 1:

Within thirty (30) days, the Company should provide documentation demonstrating the reasons it should not be considered in violation of Sections 10-4-720 and 10-4-629, C.R.S., and Amended Colorado Regulation 5-2-3. If the Company is unable to provide such documentation, the Company should be required to provide documentation demonstrating that it has corrected its procedures and implemented a plan to ensure that all notices to insureds are complete and in compliance with Colorado insurance law.

Issue B: Failure to provide clear and specific reasons on non-renewal notices.

Section 10-4-720, C.R.S., Cancellation-renewal-reclassification, states, in part:

(2) An insurer intending to take an action subject to the provisions of this section shall, on or before thirty days prior to the proposed effective date of the action, send written notice by first-class mail of its intended action to the insured at his last known address. The notice shall be in triplicate and shall state in clear and specific terms, on a form which has been certified by the insurer and the insurer has filed a certification with the commissioner that such notice form conforms to Colorado law and any rules or regulations promulgated by the commissioner:

(c) The insurer's actual reasons for proposing to take such action. The statement of reasons shall be sufficiently clear and specific so that a person of average intelligence can identify the basis for the insurer's decision without making further inquiry. Generalized terms such as "personal habits", "living conditions", "poor morale", or "violation or accident record" shall not suffice to meet the requirements of this subsection (2).

In addition, Colorado Regulation 5-2-3 (Amended)-Auto Accident Reparations Act states, in part,

2. Notice of proposed actions.

- a. A proposal to cancel, non-renew, increase the premium or reduce coverage under a private passenger motor vehicle insurance policy shall state the actual reason for proposing such action in the notice required by §10-4-720 (2), C.R.S. Only one notice is required to be sent to the insured whose incident resulted in the proposed action. The statement of reasons shall be clear and specific so that a reasonable person can understand it. The insurer shall clearly describe its underwriting rule, policy or guideline which is the basis for the proposed action. A simple recitation of dates and incidents, without further detail, is not acceptable and may cause the insurer's proposed action to be disallowed.

Section 10-4-629, C.R.S., (Effective July 1, 2003) Cancellation-renewal-reclassification, states, in part:

(2) An insurer intending to take an action subject to the provisions of this section shall, on or before the thirtieth day before the proposed effective date of the action, send written notice by first-class mail of its intended action to the insured at the insured's last-known address. The notice shall be in triplicate and shall state in clear and specific terms, on a form that has been certified by the insurer and the insurer has filed a certification with the commissioner that such notice form conforms to Colorado law and any rules promulgated by the commissioner:

(c) The insurer's actual reasons for proposing to take such action. The statement of reasons shall be sufficiently clear and specific so that a person of average intelligence can identify the basis for the insurer's decision without making further inquiry. Generalized terms such as "personal habits", "living conditions", "poor morale", or "violation or accident record" shall not suffice to meet the requirements of this subsection (2).

In the review of all twenty-six (26) nonrenewal notices sent to insureds, it was noted that the reasons for the nonrenewal were not fully explained. No specific explanations as to the reason for the Company action were provided on the notice other than "Underwriting Reasons", "Unacceptable Driver", "Unacceptable Vehicle" and "Unacceptable Claims History" without any further detail or information being given. Therefore, it appears that the Company did not provide a clear or descriptive reason to the insured as to the reason for the Company's action to non-renew.

Private Passenger Automobile Policies Non-renewed in 2003

Population	Sample Size	Number of Exceptions	Percentage to Sample
26	26	26	100%

Recommendation Number 2:

Within thirty (30) days the Company should demonstrate why it should not be considered to be in violation of Sections 10-4-720, and 10-4-629 C.R.S., and Regulation 5-2-3. If the Company is unable to provide such documentation, the Company should be required to provide documentation demonstrating that it has revised its procedures to provide clear and specific reasons in the notices of non-renewal to ensure compliance with Colorado Insurance law.

Issue C: Failure, in some cases, to use a complying reason for non-renewal of a Private Passenger Automobile policy.

Section 10-4-719.7, C.R.S., Refusal to write, changes in, Cancellation, or nonrenewal of policies prohibited, states:

(1) No insurer shall cancel, fail to renew, refuse to write, reclassify an insured under, reduce coverage under, unless the reduction is part of a general reduction in coverage filed with the commissioner, or increase the premium for, unless the increase is part of a general increase in premiums filed with the commissioner, any complying policy because the applicant, insured, or any resident of the household of the applicant or insured has had an accident or accidents which are not the fault of such named applicant, insured, household member, or permissive user.

(1.5)(a) No insurer shall cancel, fail to renew, reclassify an insured under, reduce coverage under, unless the reduction is part of a general reduction in coverage filed with the commissioner, or increase the premium for unless the increase is part off a general increase in premiums filed with the commissioner, any complying policy solely because the insured person has been convicted of an offense related to the failure to have in effect compulsory motor vehicle insurance or such person has been denied issuance of a motor vehicle registration for failure to have such insurance.

(b) (I) No insurer shall refuse to write a complying policy solely because of the claim or driving record of one or more but fewer than all of the persons residing in the household of the named insured.

(II) An insurer shall offer to exclude any person by name pursuant to section 10-4-721 in the household if such person's driving record and claim experience would justify the refusal by such insurer to write a policy for such person if such person were applying in such person's own name and not as part of a household.

(III) An insurer renewing a policy pursuant to subparagraph (II) of this paragraph (b) shall include as part of such renewal a written notice naming the party specifically excluded from coverage.

(2) An insured who believes the provisions of subsection (1) or (1.5) of this section have been violated shall have the right to file a protest with the commissioner pursuant to the provisions of section 10-4-720.

(3) The commissioner shall promulgate rules and regulations to implement the provisions of this section.

In addition, Amended Colorado Regulation 5-2-3 (Effective May 1, 2001) Auto Accident Reparations Act (No-Fault) Rules and Regulations, states in part:

4. Basis for cancellation of an automobile insurance policy.

b. In the case of policies which have been in effect for more than sixty (60) days, an insurer may cancel a policy affording the coverages required by §§10-4-706 and 10-4-707, C.R.S., only if the cancellation is based upon one of the following reasons:

- (1) Nonpayment of premium (§10-4-602, C.R.S.); or
- (2) The driver's license or motor vehicle registration of either the named insured or any operator either residing in the insured's household, or who customarily operates an automobile insured under the policy, has been under suspension or revocation during the policy period, or if the policy is a renewal, during its policy period or the 180 days immediately preceding its effective date (§10-4-602, C.R.S.); or
- (3) The applicant knowingly made a false statement on the application for insurance (§10-4-602(1)(c), C.R.S.); or
- (4) The insured knowingly and willfully made a false material statement on a claim submitted under the policy (§10-4-602(1)(d), C.R.S.).

Section 10-4-629, C.R.S., (Effective July 1, 2003) Cancellation-renewal-reclassification states:

- (1) Except in accordance with the provisions of this part 6, an insurer shall not cancel or fail to renew a policy of insurance that complies with this part 6, issued in this state, as to any resident of the household of the named insured, for any reason other than nonpayment of premium, or increase a premium for any coverage on any such policy unless the increase is part of a general increase in premiums filed with the commissioner and does not result from a reclassification of the insured, or reduce the coverage under any such policy unless the reduction is part of a general reduction in coverage filed with the commissioner or to satisfy the requirements of other sections of this part 6.

In the review of non-renewals it was noted that the Company improperly cancelled some policies that were in effect for more than sixty (60) days. In accordance with Colorado law, no policy can be non-renewed except for non-payment of premium, driver license suspension or revocation, misrepresentation on an application and/or claim. It appears that the Company non-renewed five (5) policies for reasons that should have been addressed in the underwriting process or within the fifty-nine (59) day cancellation period from inception.

The following table displays the population, sample size, number of exceptions and the percentage to sample for policies non-renewed for the period under examination:

Private Passenger Automobile Policies Non-renewed in 2003

Population	Sample Size	Number of Exceptions	Percentage to Sample
26	26	5	19%

The population and sample size of non-renewals was twenty-six (26) or 100%. From this sample five (5) or 19% of policies were non-renewed for reasons that do not appear to be in compliance with Colorado insurance law.

Recommendation Number 3:

Within thirty (30) days, the Company should provide documentation demonstrating why it should not be considered in violation of Sections 10-4-719.7 and 10-4-629, C.R.S. and Amended Regulation 5-2-3. In the event that Company is unable to provide such documentation, it should be required to provide evidence that it has corrected its procedures concerning the nonrenewal of policies in effect longer than fifty-nine (59) days to comply with the requirements of Colorado insurance law.

Issue D: Failure to provide policyholders with proper notification of an increase in premium.

Section 10-4-719.7, C.R.S., Refusal to write, changes in, cancellation, or nonrenewal of policies prohibited, states, in part:

(b) (I) No insurer shall refuse to write a complying policy solely because of the claim or driving record of one or more but fewer than all of the persons residing in the household of the named insured.

(II) An insurer shall offer to exclude any person by name pursuant to section 10-4-721 in the household if such person's driving record and claim experience would justify the refusal by such insurer to write a policy for such person if such person were applying in such person's own name and not as part of a household.

(III) An insurer renewing a policy pursuant to subparagraph (II) of this paragraph (b) shall include as part of such renewal a written notice naming the party specifically excluded from coverage.

(2) An insured who believes the provisions of subsection (1) or (1.5) of this section have been violated shall have the right to file a protest with the commissioner pursuant to the provisions of section 10-4-720.

Section 10-4-720 (C), C.R.S., Cancellation-Renewal-reclassification, states:

(1) Except in accordance with the provisions of this part 7, no insurer shall cancel or fail to renew a policy of insurance which complies with this part 7, issued in this state, as to any resident of the household of the named insured, for any reason other than nonpayment of premium, or increase a premium for any coverage on any such policy unless the increase is part of a general increase in premiums filed with the commissioner and does not result from a reclassification of the insured, or reduce the coverage under any such policy unless the reduction is part of a general reduction in coverage filed with the commissioner or to satisfy the requirements of other sections of this part 7.

(2) An insurer intending to take an action subject to the provisions of this section shall, on or before thirty days prior to the proposed effective date of the action, send written notice by first-class mail of its intended action to the insured at his last known address. The notice shall be in triplicate and shall state in clear and specific terms, on a form which has been certified by the insurer and the insurer has filed a certification with the commissioner that such notice form conforms to Colorado law and any rules or regulations promulgated by the commissioner:

Section 10-4-629, C.R.S. (Effective July 1, 2003) Cancellation-renewal-reclassification states:

(1) Except in accordance with the provisions of this part 6, an insurer shall not cancel or fail to renew a policy of insurance that complies with this part 6, issued in this state, as to any resident of the household of the named insured, for any reason other than nonpayment of premium, or increase a premium for any coverage on any such policy unless the increase is part of a general increase in premiums filed with the commissioner and does not result from a reclassification of the insured, or reduce the

coverage under any such policy unless the reduction is part of a general reduction in coverage filed with the commissioner or to satisfy the requirements of other sections of this part 6.

(2) An insurer intending to take an action subject to the provisions of this section shall, on or before the thirtieth day before the proposed effective date of the action, send written notice by first-class mail of its intended action to the insured at the insured's last-known address. The notice shall be in triplicate and shall state in clear and specific terms, on a form that has been certified by the insurer and the insurer has filed a certification with the commissioner that such notice form conforms to Colorado law and any rules promulgated by the commissioner:

(a) The proposed action to be taken, including, if the action is an increase in premium or reduction in coverage, the amount of increase and the type of coverage to which it is applicable or the type of coverage reduced and the extent of the reduction;

(b) The proposed effective date of the action;

(c) The insurer's actual reasons for proposing to take such action. The statement of reasons shall be sufficiently clear and specific so that a person of average intelligence can identify the basis for the insurer's decision without making further inquiry. Generalized terms such as "personal habits", "living conditions", "poor morale", or "violation or accident record" shall not suffice to meet the requirements of this subsection (2).

(d) If there is coupled with the notice an offer to continue or renew the policy in accordance with section 10-4-628, the name of the person or persons to be excluded from coverage and what the premium would be if the policy is continued or renewed with such person or persons excluded from coverage;

(e) The right of the insured to replace the insurance through an assigned risk plan;

(f) The right of the insured to protest the proposed action and request a hearing thereon before the commissioner by signing two copies of the notice and sending them to the commissioner within ten days after receipt of the notice;

In the course of the review of surcharges, the Company could not provide the notification of an increase in premium form for surcharged policies at renewal. It appears that the Company would send a premium billing notice to an insured with no indication as to the reason for the premium increase.

Therefore it appears the Company failed to use a separate notification, as required by Colorado insurance law, to notify the insured of the following information:

Reason for increase;

Named driver exclusion options;

Right to protest provisions;

Notification of the Colorado Assigned Risk Plan;

Basis of the increase;

Not at fault accidents, Comp or claims less than \$1,000 were applied;

Driver being surcharged not on original policy;

Reason or incidence was within 15-month period.

The absence of an increase in premium notice as required by Colorado insurance law, does not provide a notification to an insured who might not be aware of statutory recourse under Colorado insurance law.

Private Passenger Automobile Surcharges in 2003

Population	Sample Size	Number of Exceptions	Percentage to Sample
1,015	50	50	100%

An examination of fifty (50) randomly selected surcharged policies, representing 5% of all private passenger automobile policies surcharged by the Company in 2003, showed fifty instances (100% of the sample) in which the Company failed to provide a notification to an insured of an increase in premium.

Recommendation Number 4

Within thirty (30) days, the Company should provide documentation demonstrating why it should not be considered in violation of Sections 10-4-719.7, 10-4-720 and 10-4-629, C.R.S. In the event that Company is unable to provide such documentation, it should be required to provide evidence that it has corrected its procedures concerning surcharging policies at renewal to include the proper notification as required by Colorado insurance law.

Issue E: Failure to correctly apply the Senior Safe Driver Discount to comply with Colorado insurance law.

Section 10-4-632, C.R.S., (Effective July 1, 2003) Reduction in rates for drivers aged fifty-five years or older who complete a driver's education course-legislative declaration, state:

(1)(a)(I) The general assembly finds and determines that motor vehicle accidents cause a substantial economic impact in lost wages, medical bills, legal fees, rehabilitation costs, and higher insurance rates.

(II) The general assembly also finds that the motor vehicle accident rate creates an additional societal burden in the form of taxes for medicaid, for the medically indigent, and for other hospital-related costs.

(III) The general assembly further finds that the number of such accidents and injuries is positively affected when drivers fifty-five years of age or older take driver's education courses.

(b) Therefore, the general assembly declares that it is appropriate and beneficial to all the people of Colorado that drivers fifty-five years of age or older with recent training and good driving records pay experience-based insurance premiums.

(c) A financial incentive in the form of lower premiums will prompt drivers fifty-five years of age or older to take driver's education courses and will further the goal of the general assembly to reduce accident-related injuries and fatalities in Colorado.

(2) All rates, rating schedules, and rating manuals for liability and collision coverages of a motor vehicle insurance policy submitted to or filed with the commissioner under this part 6 shall provide for an appropriate reduction in premium charges based on justifiable data when the vehicle is a covered vehicle and when the principal operator is fifty-five years of age or older and has successfully completed a driver's education course taught by a driving school regulated pursuant to article 15 of title 12, C.R.S., or by a nonprofit corporation subject to articles 121 to 137 of title 7, C.R.S., if such course has been pre-approved by the department of revenue. Any discount used by an insurer shall be presumed appropriate unless credible data demonstrates otherwise. Insurers shall provide the commissioner with data reflecting the claims experience of drivers who have received reductions in premium charges compared with the claims experience of drivers who have not received such reductions.

(3) Each person who successfully completes a driver's education course taught by a commercial driving school regulated pursuant to article 15 of title 12, C.R.S., shall be issued a certificate by the commercial driving school offering the course, which certificate shall be evidence of qualification for the premium discount required by this section.

(4) Each person who successfully completes a driver's education course taught by a nonprofit corporation subject to articles 121 to 137 of title 7, C.R.S., if such course has been pre-approved by the department of revenue, shall be issued a certificate by the nonprofit corporation offering the course, which certificate shall be evidence of qualification for the premium discount required by this section.

(5) The premium reduction required by this section shall be effective for an insured for a three-year period after successful completion of the approved course. However, the insurer may require, as a condition of providing and maintaining such discount, that the insured, during the three-year period after course completion, not be involved in an accident for which the insured is held at fault.

(6) An insured may renew qualification for the discount provided by this section by:

(a) (I) Retaking a driver's education course taught by a commercial driving school regulated pursuant to article 15 of title 12, C.R.S.; or

(II) Retaking a driver's education course taught by a nonprofit corporation subject to articles 121 to 137 of title 7, C.R.S., if such course has been pre-approved by the department of revenue; and

(b) Not being involved in an accident for which the insured is held at fault.

(7) This section shall not apply where an insured driver is taking a driver's education course as a result of an order of a court or other governmental entity resulting from a moving traffic violation.

The Company's Auto Underwriting rules state:

"Applies to drivers 55 and older who have successfully completed a motor vehicle training and accident prevention course within the past three years. The course and the examination must be approved by the State Highway Patrol." and "The insured may not have an at-fault accident or have been convicted of more than one (1) moving violation in the past three (3) years."

There are no provisions in Section 10-4-623 (3) or (4) that requires the course and examination to be approved by the State Highway Patrol. The insureds only have to successfully complete "...a driver's education course taught by a nonprofit corporation subject to articles 121 to 137 of title 7, C.R.S., if such course has been pre-approved by the department of revenue, shall be issued a certificate by the nonprofit corporation offering the course, which certificate shall be evidence of qualification for the premium discount required by this section".

In addition, there are no provisions in the statute that require the insured to have had no accidents or violations in the three years prior to completing a safe driving course. The only reference to a violation free three-year time-period is after the completion of a driver's education course.

Therefore it appears the Company is not in compliance with Colorado insurance law by not applying this discount to those insureds who have completed a safe driver course as defined by Colorado law and/or may not have had a violation free three-year period prior to taking the course.

Recommendation Number 5:

Within thirty (30) days, the Company should provide documentation demonstrating why it should not be considered in violation of Section 10-4-632, C.R.S. In the event that Company is unable to provide such documentation, it should be required to provide evidence that it has changed its procedures in the application of the Senior Safe Driver Discount to comply with the requirements of Colorado insurance law.

Issue F: Failure to file a complete tier-rating plan with the Colorado Division of Insurance.

Section 10-4-404.5, C.R.S., Rating plans-property and casualty type II insurers-rules states:

The commissioner may promulgate rules and regulations for type II insurers which establish reasonable standards for rating plans, including experience rating plans, schedule rating plans, and expense reduction plans, and which are designed to modify rates in the development of premiums for individuals risks insured in the property and casualty insurance market. Such rules and regulations may permit recognition of expected differences in loss and expense characteristics and shall be designed so that such plans are reasonable and equitable in their application and are not unfairly discriminatory. Such rules and regulations shall not prevent the development of new rating methods which would otherwise comply with this part 4. The rules and regulations may establish maximum charges against and credits to the experience rating of an insured that may result from the application of a rating plan. The rules and regulations may encourage the use of loss control programs, safety programs, and other methods of risk management and may require insurers to maintain documentation of the basis for the charges and credits applied under any plan. The rules and regulations may also require the rating plans to include merit rating to the extent feasible.

In addition, Regulation 5-1-10 Rate and Rule Filing, states in part:

III. Rules

A. Definitions

1. "Classification System" or "Classification" means the plan, system, or arrangement for recognizing differences in exposure.
12. "Rating Manual" means the rates, schedule of rates, rating plans, rating classifications, territories, rating rules, and any other information which the insurer used to determine the final dollar charge for an insurance coverage.
15. "Supplementary Rating Information" includes any manual or plan of rates, classification, rating schedule, minimum premium, policy fee, rating rule, rate-related underwriting rule, experience rating plan, premium discount plan, statistical plan and any other similar information needed to determine the applicable rate in effect or to be in effect.
16. "Reference Filing by a Rating or Advisory Organization" is a filing that contains the advisory prospective loss costs or the pure premium rates and the underlying loss data and other supporting actuarial information for any calculations or assumptions underlying those loss costs or pure premium rates.

B. RATE AND RULE FILING REQUIREMENTS.

1. Every property and casualty insurer, including workers' compensation and title insurers, are required to file insurance rates, minimum premiums, schedule of rates, rating plans, dividend plans, individual risk modification plans, deductible plans, rating classifications, territories, rating rules, rate manuals and every modification of any of the foregoing which it proposes to use. Such filings must state the proposed effective date thereof, and indicate the character and extent of the coverage contemplated.

In 2000 the Company began a tier-rating program for non-standard Private Passenger Automobile program in Colorado.

In the manual rating of policies to test and verify and compare rates and other calculation variables used to derive premiums charged to policyholders and verify the actuarial data filed with the Colorado Division of Insurance, it was noted that the Company omitted from the filings the tier rating plan as well as the credit score and lack of prior insurance factors used to place applicants and insureds into the eight rating categories as shown in the underwriting manual. No other reference was found to the tier categories in the rate filings from the initial program filing in 2000 to 2003. Through the manual rating of policies, it appears that the Company does use credit scores to place applicants in one of eight tier categories.

In addition, it appears no credit scores or other data used to place risks in the eight tiers were filed as part of the any rate revision or tort reform changes effective as of July 1, 2003.

Therefore, it appears that the Company used unfiled tier and rate information for the period under review.

Recommendation Number 6:

Within thirty (30) days, the Company should provide documentation demonstrating why it should not be considered in violation of Section 10-4-404.5, C.R.S. and Regulation 5-1-10. In the event that Company is unable to provide such documentation, it should be required to provide evidence that it has corrected its rate filing to include complete information concerning rate and tier classifications to comply with the requirements of Colorado insurance law.

PERTINENT FACTUAL FINDINGS

CLAIMS

Issue G: Failure, in some cases, to pay PIP benefits in a timely manner. (This was Issue N in the previous 1998 Market Conduct Examination Report)

Section 10-3-1104, C.R.S., Unfair methods of competition and unfair or deceptive acts or practices, provides, in part:

(1) The following are defined as unfair methods of competition and unfair or deceptive acts or practices in the business of insurance:

(h) Unfair claim settlement practices: Committing or performing, either in willful violation of this part 11 or with such frequency as to indicate a tendency to engage in a general business practice, any of the following:

(II) Failing to acknowledge and act reasonably promptly upon communications with respect to claims arising under insurance policies;

Section 10-4-708 C.R.S., Prompt payment of direct benefits, provides, in part:

(1) Payment of benefits under the coverages enumerated in section 10-4-706(1)(b) to (1)(e) or alternatively, as applicable, section 10-4-706(2) or (3) shall be made on a monthly basis. Benefits for any period are overdue if not paid within thirty days after the insurer receives reasonable proof of the fact and amount of expenses incurred during that period; except that an insurer may accumulate claims for periods not exceeding one month, and benefits are not overdue if paid within fifteen days after the period of accumulation.

Additionally, Amended Regulation 5-2-8 [Amended and effective September 1, 2000], Timely Payment of Personal Injury Protection Benefits, jointly promulgated by the Commissioner of Insurance and the Executive Director of the Department of Revenue pursuant to §§10-1-109, 10-4-704, 10-4-708(1.3), and 10-3-1110(1), C.R.S.

Section 3. Rule

B. Prompt Payment of PIP Benefits

Section 10-4-708(1), C.R.S. provides that benefits under the coverages enumerated in §10-4-706, C.R.S. are overdue if not paid within 30 days after the insurer receives reasonable proof of the fact and amount of the expenses incurred.

The following chart illustrates the significance of error versus the population and sample examined:

Private Passenger Auto PIP Claims Paid

Population	Sample Size	Number of Exceptions	Percentage to Sample
155	50	5	10%

An examination of fifty (50) PIP claim files, representing 32% of all PIP claim files paid by the Company during the examination period, showed five (5) exceptions (10% of the sample) wherein the Company failed to pay at least one PIP medical bill in each file within the statutory standard as required by Colorado insurance law. This appears to be a repeat violation of PIP claim handling and was Issue N in the previous 1998 Examination Report.

Recommendation Number 7:

Within 30 days, the Company should provide documentation demonstrating why it should not be considered in violation of Sections 10-3-1104 and 10-4-708, C.R.S. and Colorado Amended Regulation 5-2-8. In the event the Company is unable to provide such documentation, it should be required to provide evidence to the Division of Insurance that it has reviewed its claims handling of PIP benefit payments and implemented necessary procedural changes in order to ensure compliance with the Colorado insurance law.

In the previous Market Conduct examination as of December 31, 1998, the Company was cited for delay in the payment of PIP benefits. The violation resulted in Recommendation 22, that the Company correct its procedures to ensure the timely payments of PIP benefits and comply with Colorado insurance law. Failure to comply with the previous recommendation and order of the Commissioner may constitute a violation of Section 10-1-205, C.R.S.

Issue H: Failure, in some cases, to pay claims in accordance with the Company's written claim procedure manual.

Section 10-3-1104, C.R.S., Unfair methods of competition and unfair or deceptive acts or practices, provides, in part:

(1) The following are defined as unfair methods of competition and unfair or deceptive acts or practices in the business of insurance:

(h) Unfair claim settlement practices: Committing or performing, either in willful violation of this part 11 or with such frequency as to indicate a tendency to engage in a general business practice, any of the following:

(XIV) Failing to promptly provide a reasonable explanation of the basis in the insurance policy in relation to the facts or applicable law for denial of a claim or for the offer of a compromise settlement.

During the review of paid claims, it was noted that the Company deducted either fifty percent (50) or seventy-five percent (75%) for prior damage on total loss settlements. There were eleven (11) total losses in the sample of Paid Claims. The Company obtains the Actual Cash Value (ACV) of a vehicle, without deductions for prior damage from an independent source. The Company then uses the amount on the repair/total loss estimate which shows the estimated repair costs for prior damage. In reviewing the Company's Total Loss Worksheet and the calculations used to derive the total loss figure, it appears that the Company deducts fifty (50%) for unrelated damage from the Actual Cash Value on vehicles that are eight (8) years or older and seventy-five (75%) for unrelated damage that are seven (7) years or newer. From the review of the Company's Claim procedures manual, it appears there is no written procedure that addresses this practice of deductions based on prior damage or the age of vehicles which are considered Total Losses.

The following shows the category and instances related to this issue:

Category/Description	Number of Exceptions
Deduction of 50% for ACV on Total Losses	8
Deduction of 75% for ACV on Total Losses	3
TOTAL	11

Recommendation Number 8:

Within thirty (30) days, the Company should provide documentation demonstrating why it should not be considered in violation of Section 10-3-1104, C.R.S. In the event the Company is unable to provide such documentation, it should be required to provide evidence to the Division of Insurance that it has reviewed the claim handling procedures and implemented necessary changes in order to ensure compliance with Colorado insurance law.

Summary of Recommendations

<u>ISSUE</u>	<u>RECOMMENDATION NUMBER</u>	<u>PAGE NUMBER</u>
Underwriting and Rating		
Issue A. Failure to use a compliant form for cancellation and nonrenewal notices.	1	19
Issue B. Failure, in some cases, to provide clear and specific reasons on nonrenewal notices.	2	21
Issue C. Failure to use a complying reason for nonrenewal of a Private Passenger Automobile policy.	3	24
Issue D. Failure to provide policyholders proper notification of an increase in premium.	4	27
Issue E. Failure to correctly apply the Senior Safe Driver Discount to comply with Colorado insurance law.	5	29
Issue F. Failure to file a complete tier-rating plan with the Colorado Division of Insurance.	6	31
Claims		
Issue G. Failure, in some cases, to pay PIP benefits in a timely manner.	7	34
Issue H. Failure, in some cases, to pay claims in accordance with the Company's written claim procedure manual.	8	35

Independent Market Conduct Examiners

Wayne C. Stephens, CIE

Kathleen M. Bergan, AIE

Participated in this examination and in the preparation of this report